

## **Part 10. Infectious Waste Management Act**

### **Cross References:**

Report of unprotected exposure to disease, 50-16-702.

### **Law Review Articles:**

Air Emissions Standards and Guidelines Under the Clean Air Act for the Incineration of Hospital, Medical, and Infectious Waste, Reitze, & Stagg, 28 Env'tl. L. 791 (1998).

Environmental Compliance for Hospitals: A Practical Guide, Zemelman, 29 J. Health & Hosp. L. 7 (1996).

Environmental Regulation of Health Care Facilities: A Prescription for Compliance, Menicucci & Coon, 47 SMU L. Rev. 537 (1994).

Federal and State Regulation of Medical Waste, Harrell & Catanzariti, 15 J. Legal Med. 1 (1994).

Medical Waste Regulation in the United States, Jensen, 9 Nat. Resources & Env't 21 (1994).

Regulation of Medical Waste in the United States, Battle, 11 Pace Env'tl. L. Rev. 517 (1994).

### **75-10-1001. Short title. This part may be cited as the "Infectious Waste Management Act".**

History: En. Sec. 1, Ch. 483, L. 1991.

### **75-10-1002. Purpose. The purpose of this part is to protect the public health, safety, and welfare of the citizens of Montana by developing and implementing infectious waste management policies that are reasonable, cost-effective, aesthetically pleasing, and environmentally acceptable.**

History: En. Sec. 2, Ch. 483, L. 1991.

### **75-10-1003. Definitions. As used in this part, the following definitions apply:**

- (1) "Department" means the department of environmental quality established in 2-15-3501.
- (2) "Generator" means an individual, firm, facility, or company that produces infectious waste.
- (3) "Infectious" means capable of producing disease. To be infectious, the following four factors simultaneously must be present:
  - (a) virulence, which is the ability of microorganisms to cause disease;
  - (b) dose, which is microorganisms in a quantity sufficient to cause infection;
  - (c) portal of entry, which is an opening or route of access into a human body; and
  - (d) host susceptibility, which means the host's natural resistance is incapable of preventing infection.
- (4) "Infectious waste" means waste capable of producing infectious disease. Infectious waste includes but is not limited to:
  - (a) cultures and stocks of infectious agents and associated biologicals;
  - (b) human pathological waste, including tissues, organs, and body parts removed during surgery or an autopsy;
  - (c) free-flowing waste human blood and products of blood, including serum, plasma, and other blood components and items soaked or saturated with blood; and
  - (d) sharps that have been used in patient care, medical research, or industrial laboratories.
- (5) "Sharps" means any discarded health care article that may cause punctures or cuts, including but not limited to needles, scalpel blades, and broken glass that may be contaminated with blood.
- (6) "Steam sterilization" means a treatment method for infectious waste using saturated steam within a pressure vessel (known as a steam sterilizer, autoclave, or retort) at a time, for a period of time, and at a

temperature sufficient to kill infectious agents within the waste.

(7) "Storage" means the actual or intended containment of wastes on either a temporary basis or a long-term basis.

(8) "Transportation" means the movement of infectious waste from the point of generation to any intermediate points or to the point of ultimate treatment or disposal.

(9) "Treatment" means the application of a method, technique, or process, including incineration, designed to render infectious waste sterile.

**History:** En. Sec. 3, Ch. 483, L. 1991; amd. Sec. 209, Ch. 418, L. 1995.

**Compiler's Comments:**

*1995 Amendment: Chapter 418 in definition of Department substituted "department of environmental quality established in 2-15-3501" for "department of health and environmental sciences established in 2-15-2101"; and made minor changes in style. Amendment effective July 1, 1995.*

*Transition: Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."*

*Saving Clause: Section 503, Ch. 418, L. 1995, was a saving clause.*

**75-10-1004. Prohibition. A person may not treat, store, transport, or dispose of infectious waste in a manner not authorized under the provisions of this part or rules adopted under the provisions of this part.**

**History:** En. Sec. 4, Ch. 483, L. 1991.

**75-10-1005. Management standards -- procedures for storage, transportation, treatment, and disposal. (1) Infectious waste must be separated from ordinary waste at the point of origin and stored until the waste is rendered noninfectious in separate, distinct containers with biohazard warning labels in compliance with the following procedures:**

(a) Sharps must be contained for storage, transportation, treatment, and subsequent disposal in leakproof, rigid, puncture-resistant containers that must be taped closed or capped securely to prevent loss of contents.

(b) Infectious waste other than sharps must be contained in moisture-proof disposable containers or bags of a strength sufficient to prevent ripping, tearing, or bursting under normal conditions of use. The bags must be securely tied to prevent leakage or expulsion of solid or liquid wastes during storage, handling, and transportation.

(2) To inhibit the spread of infectious agents, infectious waste must be stored prior to treatment in a secured area that prevents access by unauthorized personnel and must be clearly marked or labeled as infectious.

(3) Handling of infectious waste must be done in a manner to prevent compaction or other mechanical manipulation that might cause the release of infectious agents.

(4) (a) Treatment and disposal of infectious waste must be accomplished through the following methods:

(i) incineration with complete combustion that reduces infectious waste to carbonized or mineralized ash;

(ii) steam sterilization that renders infectious waste noninfectious; or

(iii) sterilization by standard chemical techniques or by any scientifically proven techniques approved by state and federal authorities.

(b) Liquid or semisolid infectious waste may be discharged into a sewer system that provides secondary treatment or into a primary treatment sewage system if waste is first sterilized by chemical treatment. A subsurface disposal system installed and operated in accordance with state or local sanitary regulations is, for the purpose of this subsection (b), a sewer system providing secondary treatment.

(c) Fetal remains or recognizable body parts other than teeth must be disposed of by incineration or interment.

(5) If infectious waste has been rendered noninfectious by one of the methods listed in subsection (4)

and is no longer biologically hazardous, it may be mixed with and disposed of with ordinary waste in the following manner:

(a) Steam-sterilized waste must be labeled identifying it as such with heat sensitive tape or bagged in marked autoclavable bags.

(b) Chemically treated waste or waste otherwise treated under subsection (4)(a)(iii) must be appropriately labeled.

(6) Infectious waste may be transported by the generator, a municipal solid waste service, or a regulated commercial hauler to an offsite treatment facility if the waste is confined in a leakproof, noncompacting, fully enclosed vehicle compartment.

(7) (a) Infectious waste that has been treated by one of the methods in subsection (4) may be disposed of in a properly operated landfill licensed under 75-10-221.

(b) Untreated infectious waste may be disposed of at a licensed, properly operated landfill until April 1, 1993, if it is buried in a separate area without compaction and with minimum disturbance.

(8) An employee who handles or manages infectious waste must receive training provided by the employer that is adequate to ensure safe performance of duties.

(9) Generators and transporters of infectious waste shall develop a contingency plan to handle spills and equipment failure.

**History: En. Sec. 5, Ch. 483, L. 1991.**

**75-10-1006. Licensing and regulation -- rulemaking authority. (1) A board or department of the state that licenses a profession, occupation, or health care facility that generates infectious waste shall require each licensee to comply with this part as a condition of licensure. The board or department shall adopt rules to implement this part and may impose and adjust annual fees commensurate with the costs of regulation.**

(2) A profession, occupation, or health care facility that generates or transports infectious waste or that operates treatment, storage, or disposal facilities regulated by this part that is not already licensed by a board or department under subsection (1) must obtain a permit annually from the department. The department shall adopt rules to implement this part and may establish an annual fee commensurate with the costs of regulation. Fees collected under the provisions of this part must be deposited in the solid waste management account established in 75-10-117.

**History: En. Sec. 6, Ch. 483, L. 1991.**

#### **Compiler's Comments:**

*1991 Statement of Intent: The statement of intent attached to Ch. 483, L. 1991, provided: "A statement of intent is required for this bill because [section 6] [75-10-1006] grants rulemaking authority to the department of health and environmental sciences [now department of environmental quality] and to professional licensing boards. It is the intent of the legislature that these regulations be designed to protect the public health, safety, and welfare and the environment and that they be developed in consideration of the needs of Montana's medical service community and with the best current technical information.*

It is also the intent of the legislature that [sections 1 through 6] [75-10-1001 through 75-10-1006] be implemented with minimum fiscal impact. The department and professional licensing boards shall ensure compliance with [sections 1 through 6] [75-10-1001 through 75-10-1006] through the course of normal inspections, the existing licensing process, and the investigation of complaints. The department and professional licensing boards may impose and adjust annual fees commensurate with the costs of regulation and inspection."